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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,291	12/03/2003	Brian C. Morris	S-00014-011	6923
25179 7590 03/04/2010 A PATENT LAWYER CORP, PLC R WILLIAM GRAHAM 22 S ST CLAIR ST DAYTON, OH 45402				
EXAMINER WILLIAMS, JEFFERY L.				
ART UNIT 2437		PAPER NUMBER		
NOTIFICATION DATE 03/04/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/727,291

Applicant(s)

MORRIS ET AL.

Examiner

JEFFERY WILLIAMS

Art Unit

2437

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 9, 11, 12, 19, 24 - 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 9, 11, 12, 19, 24 - 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1, 2, 9, 11, 12, 19, 24 – 26 are pending.

This action is in response to the communication filed on 12/14/09.

All objections and rejections not set forth below have been withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 9, 11, 12, 19, 24 – 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 11, and 24, the examiner notes that the amended recitations of "operably residing therewith" and "operably residing with" lack antecedent basis within the applicant's disclosure. The examiner respectfully reminds the applicant that claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description (see 37 CFR § 1.75). In the instant case, the examiner points out that the recitations in question render the claims ambiguous

1 and the applicant's specification fails to provide clear direction as to their interpretation.
2 For example, the examiner points out that it is unclear whether the applicant's use of
3 "operably residing" with/therewith is an attempt to reference a physical location of
4 software or a reference to the software's state of cooperation or dwelling in league with
5 the computer. The examiner further points out that applicant's remarks fail to address
6 these amended recitations. The examiner notes that the applicant's original disclosure
7 states that each of the various software modules or components (e.g. SSLAC, SSLAS)
8 may be physically located or off-loaded onto one or more intermediary devices within
9 the system (i.e. the SSLAC and SSLAS are located on an intermediary computer within
10 the system - Specification, pg. 8). Thus, the examiner notes that the recitations
11 "operably residing" with/therewith would appear to properly be interpreted as a
12 reference to the software components' or modules' state of cooperation with the rest of
13 the system components as opposed to a reference of a particular physical location of
14 the components.

Regarding claims 1 and 11, the examiner notes that the recitation *"the SSL acceleration client software on said client computer"* (claim 1, line 19; claim 11, line 19,20) lacks antecedent basis within the claim terminology. For the purpose of examination, the examiner presumes the applicant to recite *"the SSL acceleration client software operably residing with said client computer"*.

All depending claims are rejected by virtue of dependency.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 11, 12, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aziz et al. (Aziz), "Method and Apparatus for Providing Secure Communication with a Relay in a Network", U.S. Patent 6,643,701 in view of Gast, "System and Method for Accelerating Cryptographically Secured Transactions", U.S. Patent Publication 2003/0046532.

Regarding claim 24, the examiner notes that Aziz discloses a system, comprising a client, server, and intermediary devices for establishing first (fig. 4:410) and second SSL connections (fig. 4:460) between a client and a server. The system comprises software components for enabling such SSL connections, thus Aziz discloses the recited components of “*SSL protocol server software*” (Aziz, 6:21-24) and “*SSL protocol client software*” (Aziz, 6:18-21). However, Aziz does not appear to discuss the notion of SSL acceleration. Therefore, Aziz does not appear to disclose the recited software components of “*SSL acceleration server software*” and “*SSL acceleration client software*”.

Gast discloses the advantage of employing software components for SSL acceleration upon an intermediary device within a system for enabling SSL connections between a client and server (Abstract, par. 4, 7, 15, 22-24, 30; fig. 2:200). It would have been obvious to one of ordinary skill in the art to recognize the benefits of acceleration as disclosed by Gast within the system of Aziz. This would have been obvious because one of ordinary skill in the art would have been motivated by the advantages of speed and efficiency (Gast, Abstract; par. 22, 23).

The combination of Aziz and Gast enable:

a web server computer having SSL protocol server software operably associated therewith for enabling a first SSL connection, wherein SSL protocol server software includes a CA certificate and private key (fig. 3:340; 4:470; 6:21-25; 5:6-13), SSL acceleration server software operably associated with said web server computer (Gast, fig. 2:214; par. 34; Aziz, fig. 4:440; 5:6-13) which includes a pseudo CA certificate and

1 *access to said private key and a public key (Aziz, fig. 4:440; 5:4-7). Herein, the*
2 *combination enables an intermediary comprising server acceleration software with*
3 *access to the server's private key, certificate, and public key for the purpose of*
4 *functional acceleration within SSL.*

5 *and a second computer communicatively linked to said web server computer*
6 *(Aziz, fig. 4:420) operably associated with web browser software having SSL protocol*
7 *client software operably residing (Aziz, 6:18-21 – herein Aziz discloses a client*
8 *comprising software for enabling an SSL connection) therewith for enabling said first*
9 *SSL connection between a client computer and said web server computer (fig. 4:400,*
10 *410), wherein said first SSL connection (Aziz, fig. 4:410) is established between said*
11 *web browser software and SSL acceleration client software operably residing with said*
12 *client computer (Aziz, fig. 4:420) wherein said SSL acceleration software communicates*
13 *with said SSL acceleration server software to receive a copy of said pseudo CA*
14 *certificate and said public key and present said pseudo CA certificate to said web*
15 *browser software for validation thereof (Aziz, 5:6-13, 41-65) for enabling a second*
16 *connection (Aziz, fig. 4:460) with said first SSL connection (Aziz, fig. 4:410) between*
17 *said client computer and said web server computer, wherein said second SSL*
18 *connection is established between said SSL acceleration client software and said SSL*
19 *acceleration server software in a manner wherein said private key is never transmitted*
20 *to the SSL acceleration client software on said client computer (Aziz, 5:4-7 – herein,*
21 *Aziz discloses that the server shares its private key with the "SSL acceleration server*
22 *software" (e.g. relay) but not the "SSL acceleration client software" (e.g. proxy), and*

1 *which permits optimization techniques to be applied on data transmitted through said*
2 *second SSL connection (Gast, fig. 2:202, 214, 206, 212).*

3
4 Regarding claim 25, the combination enables:
5 *wherein said SSL acceleration client software is further equipped for monitoring*
6 *when said web browser requests said first SSL connection with said web server*
7 *computer and intercepting said SSL request from said web browser, and diverting*
8 *communication through said second SSL connection (Aziz, 5:49-56; 8:66-9:13).*

9
10 Regarding claims 1, 2, 11, and 12 they comprise essentially similar limitations to
11 the rejected claims above, and they are rejected, at least, for the same reasons.

12
13 **Claims 9, 19, and 26 are rejected under 35 U.S.C. 103(a) as being**
14 **unpatentable over the combination of Aziz and Gast in view of Freed et al.**
15 **(Freed), "Secure Sockets Layer Proxy Architecture", U.S. Patent Publication**
16 **2003/0014628.**

17
18 Regarding claims 9, 19 and 26, the combination recites software for transforming
19 SSL data transmissions, but does not appear to explicitly recite compression. Freed,
20 however, teaches that SSL data transmissions are transformed by compression (Freed,
21 par. 10, 52). It would have been obvious to one of ordinary skill in the art to employ
22 compression within the SSL data transmission of the combination of Aziz and Gast.

This would have been obvious because one of ordinary skill in the art would have been motivated by the teachings of the prior art regarding the nature of SSL transmissions.

Response to Arguments

Applicant's arguments filed 12/14/09 have been fully considered but they are not persuasive.

The Applicant essentially argues or asserts that:

The prior art only suggests forming multiple SSL connections wherein the CA certificate including all components access to the private key and a public key exist in each instance of forming such connections which however in so doing would violate the SSL paradigm in the case of performing data optimization operations between a server and client. In contrast, the instant invention does not transmit the private key to preserve the SSL paradigm and yet enables optimization techniques to be performed through the second SSL connection between the client and server. (Remarks, pg. 8)

The examiner respectfully responds:

The examiner respectfully notes that the applicant's new and amended claims appear to recite a system comprising a client, server, and one or more intermediary devices for enabling the recited "first SSL connection" and "second SSL connection" (Specification, pg. 8). The applicant asserts that "*the instant invention does not transmit*

1 *the private key*", however, the examiner respectfully points disagrees. It is noted that
2 the instant invention does in fact transmit or share the private key of the server with the
3 intermediary SSLAS. Thus, the applicant's invention does not appear to distinguish
4 over the prior art's disclosure of sharing of the private key with the SSLAS (i.e. "relay")
5 (Aziz, 5:1-7).

6 Furthermore, the examiner respectfully disagrees with the applicant's remarks
7 that "*the CA certificate including all components access to the private key and a public*
8 *key exist in each instance of forming such connections*". The examiner points out that
9 the prior art teaches the sharing of the private key with only the SSLAS (i.e. relay), in
10 the same manner as disclosed by the applicant.

11 12 **Conclusion**

13
14 Applicant's amendment necessitated the new ground(s) of rejection presented in
15 this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP
16 § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37
17 CFR 1.136(a).

18 A shortened statutory period for reply to this final action is set to expire THREE
19 MONTHS from the mailing date of this action. In the event a first reply is filed within
20 TWO MONTHS of the mailing date of this final action and the advisory action is not
21 mailed until after the end of the THREE-MONTH shortened statutory period, then the
22 shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery Williams whose telephone number is (571) 272-7965. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jeffery Williams/
Examiner, Art Unit 2437

/Emmanuel L. Moise/
Supervisory Patent Examiner, Art Unit 2437